

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERBERT LONG,

Plaintiff,

-against-

ANTHONY RODRIGUEZ; WILFREDO PEREZ,

Defendants.

24-CV-5227 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff, who is currently incarcerated at Sing Sing Correctional Facility, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that Defendants violated his Fourteenth Amendment right to procedural due process during a disciplinary hearing held from August 12, 2022, to August 26, 2022. Plaintiff names as Defendants Anthony Rodriguez, Sing Sing's former Director of the Incarcerated Individual Disciplinary Program, and retired Lieutenant Wilfredo Perez, the officer who conducted the disciplinary hearing.

By order dated July 12, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹ (ECF No. 7.) Additionally, by order dated August 19, 2024, the Court directed the New York State Attorney General to provide the Court and Plaintiff with service addresses for both Defendants, (ECF No. 9), which information the Attorney General provided on October 18, 2024, (ECF No. 11).

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Anthony Rodriguez and Wilfredo Perez, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each Defendant. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon each Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the summons is issued.

The Clerk of Court is further instructed to issue summonses for Defendants Anthony Rodriguez and Wilfredo Perez, complete the USM-285 form with the address for each Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is also directed to mail a copy of this order to AAG Jessica Acosta-Pettyjohn, Office of the New York State Attorney General, 28 Liberty Street, 16th Floor, New York, NY 10005.

SO ORDERED.

Dated: October 21, 2024
White Plains, New York

A handwritten signature in black ink that reads "Cathy Seibel". The signature is written in a cursive, flowing style.

CATHY SEIBEL
United States District Judge

SERVICE ADDRESSES FOR THE DEFENDANTS

1. Anthony Rodriguez
New York State Department of Corrections and Community Supervision
C/O Office of Counsel
The Harriman State Campus, Building 4
1220 Washington Ave.
Albany, New York 12226
2. Wilfredo Perez
New York State Department of Corrections and Community Supervision
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562